

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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OMNI CONSULTING GROUP, INC.,

Plaintiff,

v.

ORDER  
01-CV-511A

MARINA CONSULTING, INC. and  
PILGRIM'S PRIDE CORP.,

Defendants.

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This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1). On March 24, 2006, defendant Pilgrim's Pride Corp. ("Pilgrim") filed a motion for summary judgment. On that same date, plaintiff Omni Consulting Group, Inc. ("Omni") filed a cross-motion for summary judgment against Pilgrim on the issue of liability.

On February 23, 2007, Magistrate Judge Scott issued a report and recommending that Pilgrim's motion for summary judgment be denied and that Omni's motion for partial summary judgment on the issue of liability be granted. Pilgrim filed objections to the report and recommendation and Omni filed a response. The Court held oral argument on the objections on June 27, 2007.<sup>1</sup>

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<sup>1</sup> Oral argument was initially scheduled to occur on May 5, 2007 but was adjourned so as to afford the parties an opportunity to engage in settlement negotiations. Following unsuccessful efforts to settle this matter, oral argument was rescheduled to June 27, 2007.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the report and recommendation to which objections have been made. Upon a *de novo* review of the report and recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the report and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's report and recommendation, Pilgrim's motion for summary judgment is denied and Omni's motion for partial summary judgment against Pilgrim on the issue of liability is granted. The parties shall appear before the Court on October 5, 2007, at 9:00 a.m. for a status conference.

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: September 12, 2007